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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,924	12/03/2003	Steffen Assmann	25859	4472

20529 7590 10/24/2005

NATH & ASSOCIATES
1030 15th STREET, NW
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WASHINGTON, DC 20005

EXAMINER

KOSLOW, CAROL M

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,924

Applicant(s)

ASSMANN ET AL.

Examiner

C. Melissa Koslow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20 and 25 is/are allowed.
- 6) ☒ Claim(s) 24 is/are rejected.
- 7) ☒ Claim(s) 21-23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/12/04</u> . | 6) <input type="checkbox"/> Other: ____ |

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The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892 or by applicant on form PTO-1449 or its equivalent, they have not been considered.

The German references cited in the information disclosure statement of 12 October 2004 have been considered with respect to the provided English abstracts.

The disclosure is objected to because of the following informalities: Page 3, lines 4-9 refer to the claims. The specification should not refer to the claims since the claim numbering and claim content may change during prosecution. The purpose of the heat-treating step in the leucite producing process on pages 9 and 10 is not stated. Thus one of ordinary skill in the art cannot determine what other temperatures and times, besides 1000°C for 1 hour, applicants intend to disclose. Appropriate correction is required.

The narrow phrase or number range in the claims after the terms "preferably" and "in particular" have been given no patentable weight. This is because the phrase or number range after the terms are examples of the broad term or range and claims are given their broadest interpretation. Applicants may add dependent or independent claims directed to the above narrow phrase or range.

Claims 21, 22 and 24 are objected to because of the following informalities: The space in the temperatures 1100, 1050, 1000, 1400 and 1600 needs to be deleted or replaced with a comma. Appropriate correction is required.

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Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The purpose of the heat-treating step in the leucite producing in this claim is not stated. Thus one of ordinary skill in the cannot determine what other temperatures and times, besides 1000°C for 1 hour, applicants intend to claim.

Claims 1-20 and 25 are allowable over the cited art of record.

Claims 21 and 22 would be allowable if rewritten or amended to overcome the objection set forth in this Office action.

Claim 23 is objected to as being dependent upon an objected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 24 would be allowable if rewritten or amended to overcome the objection and the rejection under 35 U.S.C. 112, second paragraph, set forth in this Office action.

There is no teaching or suggestion in the cited art of record of a glass ceramic having a crystal phase comprising tetragonal leucite crystals where these crystals have the claimed size distribution. The art, as exemplified by U.S. patent 6,706,654, all teach the leucite crystals in glass-ceramics should be uniform in size, not the claimed multi-modal size distribution.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cmk
October 21, 2005



C. Melissa Koslow
Primary Examiner
Tech. Center 1700